REMARKS

Pending in this application are claims 43 – 95. Claims 1 - 42 were previously canceled. No amendments to the claims have been made.

THE OBJECTIONS

The Examiner has objected to claims 43, 53, 56, 60, 86, 88 and 93 because of "informalities" cited by the Examiner. The Examiner has suggested that the phrase "said remote terminal" should be changed to "said at least one remote terminal – to conform with what the Examiner refers to as U.S. Practices. Applicants respectfully traverse this objection.

The Examiner's objection is based on the alleged failure to positively recite a preceding limitation. Applicants respectfully submit that the present wording is proper and that the objection should be withdrawn.

A limitation in a claim which has a clear antecedent basis does not need to recite each feature found in the antecedent limitation. *See, Ex parte Porter*, 25 U.S.P.Q. 2d 1144, 1145 (Bd. Pat. App. & Inter. 1992) ("controlled stream of fluid" provided reasonable antecedent basis for "the controlled fluid"). This is precisely the situation in the present case. The antecedent limitation is "at least one of said terminals is remote." This clearly provides a reasonable basis for the phrase "said remote terminal." Moreover, this phrase "said remote terminal" is such that it is clearly understood by those skilled in the art. *See, Id.* (the scope of the claims would be reasonably ascertained by those skilled in the art.)

As noted in MPEP §2173.02, the Examiner's focus during examination of claims should be whether the claim meets "the threshold requirements for clarity and precision, not whether more suitable language or modes of expression are valuable." The MPEP goes on to state that while examiners are encouraged to suggest claim language to improve clarity, they "should not reject claims or insist on their own preferences if other modes of expression satisfy the statutory requirement." MPEP §2173.02.

In the present case, the Examiner's rejection is an attempt to impose his preference for the claim format and ignores the fact that the claims are clear as written. Given the clarity of the claims as written, the Examiner's objection should be withdrawn.

THE REJECTION UNDER 35 U.S.C. §102(e)

The Examiner has rejected claims 72 – 85 under 35 U.S.C. §102(e) as being unpatentable over Jing. Applicants respectfully traverse this rejection.

To make a rejection under 35 U.S.C. §102, the Examiner must first determine the effective filing date of the application. MPEP §706.02(a). Where the application is a continuation of one or more U.S. applications and the requirements of 35 U.S.C. §120 are met, the effective filing date of the application is the same as the earliest filed application. MPEP §706.02.

After having determined the effective date of the application, the Examiner should then look at the effective filing date of the reference. For purposes of 35 U.S.C. §102(e), this is the filing date of the application which leads to the cited patent. MPEP §2136. Only if the filing date of the cited reference is before the filing date of the present application in the date of invention of the subject matter can a rejection under §102(e) be maintained. *See, Id.* In other words, if the effective filing date of the present application predates the filing date of the cited patent, a rejection under 35 U.S.C. §102(e) is improper. See MPEP §2136.05.

In the present case, the current application claims to be a continuation of an earlier co-pending application, U.S. No. 09/514,833 which was filed on February 28, 2000. All the conditions of 35 U.S.C. §120 were made as of February 28, 2000 the effective filing date of the present application. MPEP §706.02. The Jiang patent was filed on November 9, 2000, 8 months after the effective filing date of the present application. Thus the Jiang reference cannot serve as a reference under 35 U.S.C. §102(e). MPEP §2136.05. Applicants respectfully submit that the rejection should be withdrawn.

THE REJECTION UNDER 35 U.S.C. §103(a)

The Examiner has also rejected claims 43 – 71 and 86 – 95 under 35 U.S.C. §103(a) as being unpatentable over Jiang in view of Campbell. Applicant respectfully traverses this rejection.

Before a reference can be used as prior art to support a rejection under 35 U.S.C. §103(a), the Examiner must first determine if the reference is prior art under 35 U.S.C. §102. MPEP §141.01. As discussed above, the Jiang reference does not qualify as prior art under

35 U.S.C. §102(e) as its effective filing date is after the effective filing date of the present application. Similarly, Jiang does not qualify as prior art under the other provisions of §102 as the publication date is well after the effective filing date of the present application.

The Campbell reference is also not available as prior art under 35 U.S.C. §103(a). The filing date of Campbell is June 27, 2003, over three years after the effective filing date of the present application. Campbell published almost 5 years after the effective filing date of the present application. Given that Campbell does not meet the requirements of prior art under 35 U.S.C. §102, it cannot be prior art under 35 U.S.C. §103(a). See MPEP §2141.01.

Since neither reference cited by the Examiner can be properly used as prior art under 35 U.S.C. §103(e), the rejection based on those references can not stand. Applicants respectfully submit that the rejection should be withdrawn.

In view of the above, Applicants believe the pending application is in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 47524/P109C1/10313546 from which the undersigned is authorized to draw.

Dated: June 14, 2006

Respectfully submitted,

By _____

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